



STATE OF NEVADA

**BEFORE THE NEVADA COMMISSION ON ETHICS**

In the Matter of the Request for Opinion  
Concerning the Conduct of WARREN HARDY II,  
Member of the Senate,  
State of Nevada,

**Request for  
Opinion No. 08-04C**

Public Officer.

**NOTICE OF HEARING  
and  
PANEL DETERMINATION**

**NOTICE OF HEARING**

PLEASE TAKE NOTICE that a hearing is set before the Nevada Commission on Ethics to consider the allegations listed below against Warren Hardy II (Hardy) in accordance with Nevada Revised Statutes 281A and 233B and Nevada Administrative Code 281A.

As a member of the State Senate, Hardy is a public officer as defined by NRS 281A.160. Therefore, the Nevada Commission on Ethics has jurisdiction over this matter, pursuant to NRS 281A.280 and NRS 281A.440.2(b).

The purpose of the hearing is to determine whether Hardy violated of the Nevada Ethics in Government Law (NRS 281A). In addition to being a state senator, Hardy is the executive director for Associated Builders & Contractors, Inc. of Las Vegas (ABC-LV), a trade association of non-union contractors. The allegations are that Hardy: 1) used his position for his own or ABC-LV's advantage; 2) failed to adequately disclose his private interest and commitment; 3) failed to abstain on SB 467 of 2005 legislative session and SB 509 of the 2007 legislative session. Further, during the Commission hearing if a violation or violations are found, the Commission will determine whether his conduct was willful and whether any penalties will be imposed by the Commission, pursuant to NRS 281A.480.

## THE HEARING WILL TAKE PLACE:

**August 14, 2008 beginning at 9:00 a.m., or as soon thereafter as the Commission is able to hear the matter, at the following locations:**

**NEVADA LEGISLATIVE BUILDING,  
401 S. CARSON STREET, ROOM 3143,  
CARSON CITY, NEVADA 89701**  
with a video-conference link to  
**GRANT SAWYER STATE BUILDING,  
555 E. WASHINGTON AVENUE, ROOM 4401,  
LAS VEGAS, NEVADA 89101.**

Hardy must be present when this matter is called. If Hardy is not present when this hearing is called, the Commission may consider as true the alleged violations specified in the Panel Determination below. Please direct any hearing scheduling matters to Patricia D. Cafferata, Executive Director, Esq., at (775) 687-5469, Ext. 222.

The hearing is open under Nevada's Open Meeting Law, and may be attended by the public. A verbatim record will be made by a certified court reporter. Hardy has the right to appear, hear evidence presented to the Commission and respond and present evidence on his own behalf. Hardy may be represented by legal counsel.

Hardy has the right to request that the Commission issue subpoenas on his behalf to compel witnesses to testify and/or produce evidence. In making this request, he may be required to demonstrate the relevance of the witness' testimony and/or evidence. Other rights are found in NRS 281A, NRS 233B, and NAC 281A.

A finding by the Commission of a violation of NRS 281A must be supported by a preponderance of the evidence.

### **PANEL DETERMINATION**

On April 10, 2008, pursuant to NRS 281A.440.3, a Panel consisting of Commissioners Tim Cashman and Rick Hsu reviewed the following: Complaint; Response to Complaint; Executive Director's Reports and Recommendations Regarding Just and Sufficient Cause; and the evidence collected.

The Panel found that **just and sufficient cause DOES NOT exists** for the Commission to hold a hearing and render an opinion on the allegations that Hardy violated the following certain provisions of the Nevada Ethics in Government Law for the allegations pertaining to the **2003 Legislative Session**.

Therefore, those allegations were **DISMISSED**. On the remaining allegations, the panel continued the proceeding until a later date.

During the course of investigation, information was discovered regarding facts beyond those presented in the complaint. These facts were related to alleged violations of NRS 281A.400.2. Hardy was properly noticed pursuant to NAC 281.188.3 regarding these additional facts and he has responded to the notice.

On June 30, 2008, pursuant to NRS 281A.440.3, the Panel met a second time and reviewed the original documents and Executive Director's Supplemental Report and Recommendation Regarding Just and Sufficient Cause and the additional evidence collected.

The Panel found that **just and sufficient cause DOES NOT exists** for the Commission to hold a hearing and render and opinion on the allegations that Hardy violated the following provisions of the Ethics in Government Law:

- NRS 281A.400.2 (misuse of office): During the 2005 legislative session when S.B. 434 and A.B. 210 were considered by the Legislature.
- NRS 281A.400.2 (misuse of office): During the 2007 legislative session when S.B. 201, S.B. 279, A.B. 56, and A.B. 110 were considered by the Legislature.
- NRS 281A.420.2 (abstention): During the 2005 legislative session when S.B. 434 and A.B. 210 were considered by the Legislature.
- NRS 281A.420.2 (abstention): During the 2007 legislative session when S.B. 201, S.B. 279, A.B. 56, and A.B. 110 were considered by the Legislature.
- NRS 281A.420.4 (disclosure): During the 2005 legislative session when S.B. 434 and A.B. 210 were considered by the Legislature.
- NRS 281A.420.4 (disclosure): During the 2007 legislative session when S.B. 201, S.B. 279, A.B. 56, and A.B. 110 were considered by the Legislature.

Therefore, these allegations were **DISMISSED**.

The Panel unanimously found that **just and sufficient cause DOES exist** for the Commission to hold a hearing and render and opinion on the allegations that Hardy violated:

- NRS 281A.400.2 by using his position in government to secure or grant an unwarranted advantage for himself and/or ABC-LV during the 2007 legislative session on S.B. 509 that would benefit ABC-LV's members.
- NRS 281A.420.2 by failing to abstain from voting during the 2007 legislative session on S.B. 509, a bill to expand the types of public works projects on which prevailing wages must be paid.
- NRS 281A.420.4 and by failing to adequately disclose his pecuniary interest and commitment to ABC-LV on S.B. 509 in the 2007 legislative session.

On S.B. 467 a bill relating to public works projects, the panel was not unanimous on its findings on the allegations on NRS 281A.400.2, NRS 281A.420.2 and NRS 281A.420.4.

Pursuant to NAC 281A.435, if one member of a panel finds that just and sufficient cause exists for the Commission to render an opinion on an ethics complaint, the matter is forwarded to the Commission for hearing.

Because Commissioner Hsu found that **just and sufficient cause DOES exist** for the Commission to hold a hearing and render and opinion on the allegations that Hardy violated:

- NRS 281A.400.2 by using his position in government to secure or grant an unwarranted advantage for himself and/or ABC-LV during the 2005 legislative session and/or during

the interim period between the 2003-2005 sessions for his activities on S.B. 467 that would benefit ABC-LV's members.

- NRS 281A.420.2 by failing to abstain from voting during the 2005 legislative session on S.B. 467, a bill on public works projects.
- NRS 281A.420.4 and by failing to adequately disclose his pecuniary interest and commitment to ABC-LV on S.B. 467 in the 2005 legislative session.

Therefore, the Request for Opinion is **REFERRED** to the Nevada Commission on Ethics for hearing on the above allegations on S.B. 467 in the 2005 legislative session and on S.B. 509 in the 2007 legislative session.

Dated: \_\_\_\_\_

July 2, 2008

Patricia D. Cafferata  
Patricia D. Cafferata, Esq.  
Executive Director

### CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this 1st day of July, 2008, in Carson City, Nevada, I placed a true and correct copy of the **NOTICE OF HEARING AND PANEL DETERMINATION ON RFO No. 08-04C** in an envelope and caused same to be mailed via Federal Express next day delivery to Hardy and hand delivered to his counsel at the following address:

BRENDA ERDOES, ESQ.  
Legislative Counsel Bureau  
401 S. Carson Street  
Carson City, Nevada 89701-4747

Senator Warren Hardy, II  
5070 Arville Street # 4  
Las Vegas, NV 89119-4904

DATED:

July 2, 2008

Michelle A. Ené  
An employee, Nevada Commission on Ethics